

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**PHIL SWARTZTRAUBER AND  
SUSAN SWARTZTRAUBER,**

**Plaintiffs,**

**V.**

**TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA,**

**Defendant.**




























**CIVIL ACTION NO.** \_\_\_\_\_

## **NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441, and 28 U.S.C. § 1446, Defendant Travelers Casualty and Surety Company of America (“Defendant” or “Travelers”) files this Notice of Removal, and in support thereof, states as follows:

1. Travelers is the only defendant in the state court action styled *Phil Swartztrauber and Susan Swartztrauber v. Travelers Casualty and Surety Company of America*, Cause No. 2016-13442, pending in the 334<sup>th</sup> District Court of Harris County, Texas (the “State Court Action”).

2. Plaintiffs Phil Swartztrauber and Susan Swartztrauber (collectively, “Plaintiffs”) filed their Plaintiff’s Original Petition (the “Petition”) in the State Court Action on March 2, 2016. Travelers received, through service on its registered agent, the Citation and the Petition on March 8, 2016. (*See* Exhibit B). This Notice of Removal is therefore timely filed within thirty (30) days after the receipt by Travelers of a copy of the initial pleading and citation pursuant to 28 U.S.C. § 1446(b)(1).

3. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(a), because the case is a civil action between citizens of different States, wherein the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

4. On information and belief, Plaintiff Phil Swartztrauber is an individual United States citizen who resides in Harris County, Texas, and therefore is a citizen of the State of Texas.

5. On information and belief, Plaintiff Susan Swartztrauber is an individual United States citizen who resides in Harris County, Texas, and therefore is a citizen of the State of Texas.

6. Travelers is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in the State of Connecticut, and therefore is deemed to be a citizen of the State of Connecticut.

7. Given the foregoing paragraphs 4., 5., and 6., complete diversity of citizenship exists among the parties pursuant to 28 U.S.C. § 1332(a)(1), (c)(1).

8. In their Petition, Plaintiffs contend that they are entitled to insurance coverage for an underlying civil lawsuit brought against them (the “Underlying Lawsuit”), under the Community Association Management Liability Coverage Policy No. 106126853 issued by Travelers to West Bayou Oaks Townhomes Central Association, Inc. for the **Policy Period** from July 1, 2015 to July 1, 2016 (the “Policy”).<sup>1</sup>

9. The amount in controversy in this action exceeds the \$75,000 threshold under 28 U.S.C. § 1332(a).

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<sup>1</sup> The capitalized words in bold font are terms which are defined in the Policy and are used herein in accordance with those definitions.

10. Specifically, the Petition expressly states that Plaintiffs “affirmatively plead that they seek monetary relief over \$1,000,000.00.” (*See* Exhibit C ¶ 1). In addition to their claimed actual damages, Plaintiffs seek recovery from Travelers of statutory penalties and treble damages under Chapter 541 of the Texas Insurance Code, statutory penalties under Chapter 542 of the Texas Insurance Code, and attorney’s fees. (*See* Exhibit C ¶¶ 24-26).

11. Further, because the Policy’s applicable limit of liability is \$1,000,000, the amount of insurance coverage at issue in this action exceeds \$75,000.

12. Consequently, the amount in controversy requirement under 28 U.S.C. § 1332(a) is satisfied by both the total amount of recovery sought by Plaintiffs from Travelers and the amount of insurance coverage at issue.

13. This Court therefore has original jurisdiction over this action under 28 U.S.C. § 1332(a), and removal of this action to this Court is proper under 28 U.S.C. § 1441.

14. Copies of all materials required by 28 U.S.C. § 1446(a) and Local Rule 81 are filed as exhibits hereto.

15. For these reasons, this action is properly removable from the 334<sup>th</sup> District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division, such being the district and division where the State Court Action is pending.

16. Travelers will give notice of the filing of this Notice of Removal to all parties through their counsel of record and will file a copy of this Notice of Removal in the State Court Action, as required by 28 U.S.C. § 1446(d).

17. Travelers does not waive and specifically reserves any and all objections, exceptions, or defenses to the Petition.

Respectfully submitted,

By: /s/ J. Price Collins

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**ATTORNEYS FOR DEFENDANT TRAVELERS  
CASUALTY AND SURETY COMPANY OF AMERICA**

**CERTIFICATE OF SERVICE**

This is to certify that, on April 6, 2016, a true and correct copy of the foregoing Notice of Removal was served on the following counsel of record by certified mail, return receipt requested and by email:

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/s/ J. Price Collins  
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